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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Utility Patent Application of) June 3, 2004
)
Stephen P. Finch)
)
Serial No. 10/757,246)
)
Filed January 14, 2004)
)
Method for Extracting Gluten)

Mail Stop: Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

PETITION TO PERMIT FILING UNDER 37 C.F.R. 1.47(b)

Petitioner, ICM, Inc. (ICM) hereby submits this Petition To Permit Filing Under 37 C.F.R. 1.47(b) of the above-identified application ("the application"). In support of this Petition , ICM submits the attached Declaration Under 37 C.F.R. 1.47(b) of Mr. David Vander Griend, President of ICM, attached hereto as Exhibit 1. The inventor of the invention described and claimed in the application is Mr. Stephen P. Finch. The last known address for Mr. Finch is N. 3491 Pamela Lane, New London, Wisconsin, 54961.

Mr. Vander Griend's declaration includes an assignment executed by Mr. Finch assigning the invention described and claimed in the application to ICM, Inc. Accordingly, this document establishes ICM's ownership of the invention and the application. This assignment is attached as exhibit A to the declaration.

06/03/2004 SDIRETA1 00000080 10757246

02 FC:1460

130.00 OP

Mr. Vander Griend's declaration also sets forth facts relating to Mr. Finch's refusal to execute the application papers, namely, the declaration, presented to him for signature. This application and associated papers (i.e. declaration) were sent to Mr. Finch for his signature. He has refused to execute the declaration. Instead, he has demanded additional payments from ICM. (Exhibits B, C and D)

Mr. Vander Griend's declaration states that filing the application is necessary to preserve the rights of the parties to prevent irreparable damage. The application was filed to prevent the loss of the benefit of the provisional application filing date of January 14, 2003.

The petition Fee of \$130 is enclosed herewith.

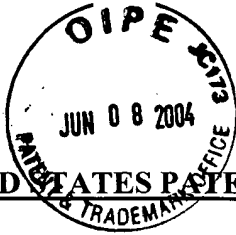
Accordingly, ICM respectfully request that this petition to permit filing of the application on behalf of the non-signing inventor be granted.

Respectfully Submitted

A handwritten signature in black ink, appearing to be 'R. Blinn', written over a horizontal line.

Robert O. Blinn
Patent Office Reg. No. 36,751

P.O. Box 75144
Wichita KS 67275
Telephone (316) 773-3270



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Utility Patent Application of)
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Stephen P. Finch)
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Serial No. 10/757,246)
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Method for Extracting Gluten)

Mail Stop: Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

DECLARATION UNDER 37 C.F.R. 1.47(b)

I, David Vander Griend, hereby declare that:

1. I have been the President of ICM, Inc. since January of 1995. ICM's principle place of business is 310 North First Street, Colwich, Kansas, 67030.

2. I executed the Declaration for the following patent application on behalf of Stephen P. Finch because he refuses to execute the declaration.

<u>Title</u>	<u>Serial No.</u>
Method for Extracting Gluten	10/757,246

3. In June of 2002, ICM hired Stephen P. Finch as a regular employee to develop products and processes for ICM.

4. During late 2002 and early 2003, Mr. Finch developed a Gluten Extraction Process for ICM.

5. On January 14, 2003, ICM had Robert Blinn of the Chase Law Firm, L.C. ("Blinn") file a provisional patent application describing the Gluten Extraction Process invented by Mr. Finch. The United States Patent and Trademark Office assigned this provisional application a Serial Number of 60/439,970.

6. On January 31, 2003, Mr. Finch executed the attached assignment recorded in the patent office at reel 013757, frame 0676 conveying to ICM the Method for Extracting Gluten described in the provisional application filed on January 14, 2003. In this assignment, Mr. Finch assigned his "entire right title and interest in and to this invention and this application, and all divisions, and continuations thereof ... " (See Exhibit A)

7. In April 2003, Mr. Finch left the employment of ICM.

8. Because ICM believes that the Gluten Extraction Process has potential commercial value, ICM directed Blinn to prepare a non-provisional patent application covering the subject matter of the provisional patent application filed January 14, 2003.

9. On January 14, 2004, the non-provisional patent application was filed with missing parts to prevent loss of the benefit of the application date afforded by the provisional patent application filed on January 14, 2003.

10. On February 6, 2004, Blinn forwarded the above non-provisional patent application and its related papers to Mr. Finch for his review and signature as the inventor of the process. (See Exhibit B)

11. On February 7, 2004, prior to receiving the application papers, in response to an e-mail sent by Blinn to Mr. Finch, Mr. Finch indicated that he would not sign the declaration unless given additional money by ICM. (See Exhibit C)

12. Mr. Finch received the application papers on February 10, 2004 and as of the present date, has not signed and returned the declaration enclosed therewith. (See Exhibit D)

13. The application was filed to prevent loss of the benefit of the filing date of the provisional patent application and to prevent loss of the right to seek a patent because of the one year bar proscribed by U.S. Patent laws (35 U.S.C. § 102(b)).

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application and any patent issuing thereon:

Dated: _____

5-10-04



David Vander Griend,
President, ICM, Inc.

ASSIGNMENT

WHEREAS I, the below named inventor, [hereinafter referred to as Assignor], have made an invention entitled:

Method for Extracting Gluten

for which I have filed a provisional patent application on 14 January 2003 having US Patent and Trademark Office Application number 60 / 439,970 and,

WHEREAS, ICM, Inc., a corporation of KANSAS whose address is: 310 N First St., Colwich, Kansas 67030, hereinafter referred to as assignee, wishes to secure the entire right, title, and interest in and to this invention in all countries throughout the world, and in and to the application for United States Letters Patent on this invention and the Letters Patent to be issued upon this application.

NOW THEREFORE, be it known that for and in consideration of the sum of One Dollar (\$1.00) in hand paid and other good and valuable consideration the receipt of which from assignee is hereby acknowledged, I as assignor have sold, assigned, transferred and set over, and do hereby sell, assign, transfer, and set over unto the assignee, its lawful successors and assigns, my entire right, title and interest in and to this invention and this application, and all divisions, and continuations thereof, and all Letters Patent of the United States for Letters Patent which may be granted thereon, and all reissues thereof, and all rights to claim priority on the basis of such application, and all applications for Letters Patent which may hereafter be filed for this invention in any foreign country and all Letters Patent which may be granted on this invention in any foreign country, and all extensions, renewals, and reissues thereof; and I hereby authorize and request the Commissioner of Patents and Trademarks of the United States and any official of any foreign country whose duty it is to issue patents on applications as described above, to issue all Letters Patent for this invention to assignee, its successors and assigns, in accordance with the terms of this assignment.

AND, I HEREBY covenant that I have the full right to convey the interest assigned by this Assignment and I have not and will not execute any agreement in conflict with this Assignment:

AND, I HEREBY further covenant and agree that I will, without further consideration, communicate with assignee, its successors and assigns, any facts known to me respecting this invention, and testify in any legal proceeding, sign all lawful papers when called upon to do so, execute and deliver any and all papers that may be necessary or desirable to perfect the title to this invention in said assignee, its successors and assigns, execute all divisional, continuation, and reissue applications, make all rightful oaths and generally do everything possible to aid assignee, its successors and assigns, to obtain and enforce proper patent protection for this invention in the United States and any foreign country, it being understood that any expense incident to the execution of such papers shall be borne by the assignee, its successors and assigns

IN TESTIMONY WHEREOF, I have hereunto set my hand:

Subscribed and sworn to before me this

31st day of January, 2003

FULL NAME OF SOLE ASSIGNOR:

Stephen Patrick Finch

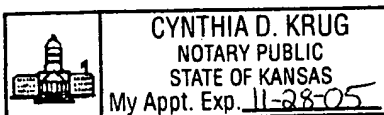
ADDRESS of Residence:

414 East Second Street

Russell, Kansas 67665

Cynthia D. Krug
Notary Public

Stephen Patrick Finch 01-31-03
SIGNATURE DATE:



ROBERT BLINN
CHASE LAW FIRM, L.C.

OVERLAND PARK OFFICE
D.A.N. CHASE **
GINNIE C. DERUSSEAU ***
JAMES J. KERNELL **
SEAN T. BRADLEY **

PO Box 75144
WICHITA, KANSAS 67275

OF COUNSEL
MICHAEL YAKIMO, JR., P.C. **
MARK E. BROWN **

TELEPHONE (316) 773-3270
FAX (316) 729-5918
e-mail: rblinn@robertblinn.com

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WICHITA OFFICE
ROBERT O. BLINN*

*ADMITTED IN KANSAS AND BEFORE
THE U.S. PATENT AND TRADEMARK
OFFICE
**ADMITTED IN KANSAS, MISSOURI
AND BEFORE THE U.S. PATENT AND
TRADEMARK OFFICE
***ADMITTED IN KANSAS, VIRGINIA,
D.C. AND BEFORE THE U.S. PATENT
AND TRADEMARK OFFICE

February 6, 2004 Via Certified Mail 7002 2030 0005 4659 3952, Restricted Delivery

Mr. Stephen P. Finch
N. 3491 Pamela Lane
New London, WI 54961

Re: Non-Provisional Utility Patent Application -
Method for Extracting Gluten, Docket 3018W

Dear Mr. Finch

I have been retained by ICM to complete its patent application in the above referenced Gluten Extracting process. Please find enclosed one copy of the above referenced patent application, including the specification, the claims and the drawings and two copies of a declaration for that patent application. Because we are unsure of your citizenship status, two declarations are enclosed. The first one indicates that you are an Australian Citizen, the second one indicates that you are a US citizen. Please use the one that designates your citizenship correctly.

When you signed the assignment conveying the concept of this patent application to ICM, you agreed to execute and deliver papers needed to perfect ICM's title in the invention. Accordingly, we request that you review the enclosed copy of the above referenced patent application and sign, date and return the appropriate declaration form using the enclosed, addressed, stamped envelope. Please have this return mail post marked no later than 19 March 2004. If we do not receive this signed declaration, we will assume that you have refused to comply with our request and will proceed accordingly.

I will be happy to answer any questions that you might have regarding this matter.

Sincerely yours,

CHASE LAW FIRM, L.C.

By: 

Robert Blinn

Enclosures: Above Referenced Patent Application
Declaration Forms and Return Envelop

Robert Blinn Law Office

From: Steve Finch [foodtechnology@charter.net]
Sent: Saturday, February 07, 2004 2:19 PM
To: rblinn@robertblinn.com
Subject: Re: copy of patent and Declaration

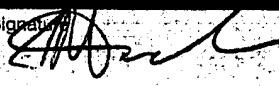
Bob

I worked very hard on the 90% wheat Protein project for Dave and for my hard work, Dave told me I would receive \$50,000 for each of my projects split up between who I felt should get a portion of that money. I decided that we all work as hard as each and all 5 of us would get \$10,000 each for that project and \$10,000 for the Fish Pellet project. Dave Vandergriend is an excellent gentleman and an honourable man, as are far as I am concerned. I know I have already signed it preliminarily, however, I have to be paid for my work and that will be concluded when I receive my Check. I will then sign it with pleasure. Dave knows the work I am putting in to sell the protein, Dave knows what he said. He also knows I do nothing but praise Dave and his company that is one of the reasons he is working on the Indiana plant. I was asked who I preferred to be the Process Engineering company and why, I recommended ICM and the Team. Please tell Dave to send me the check and I will honor them with the signature. Steve Finch

----- Original Message -----

From: "Robert Blinn Law Office" <rblinn@robertblinn.com>
 To: "'Steve Finch'" <foodtechnology@charter.net>
 Sent: Saturday, February 07, 2004 9:15 AM
 Subject: RE: copy of patent and Declaration

>
 > Mr. Finch:
 >
 > I hope things are going well for you in your new home in Wisconsin.
 >
 > Yesterday, I sent you a copy of the Non-Provisional Patent Application
 > for the Gluten Extraction Process along with a declaration for your
 > signature. This will arrive via Certified, Restricted Delivery Mail
 > under serial number 7002 2030 0005 4659 3952. You will have to
 > personally sign for this package so that I may know that you actually
 > received it. (Actually, I sent two declarations - one indicating US
 > Citizenship and one indicating Australian Citizenship - I was not sure
 > whether or not you had become a US Citizen. I seem to remember that
 > you were working on that.) It would help the patent process if you
 > could sign the declaration indicating the correct citizenship and
 > return it using the return stamped envelop provided.
 >
 > Please keep in mind that the contents of the application are
 > proprietary to ICM, Inc.. Disclosure of the contents of the
 > application to others (those other than myself and ICM personnel)
 > without ICM's permission would violate ICM's trade secret rights.
 >
 > Thanks for your help.
 >
 > Please feel free to call me if you have any questions or concerns.
 >
 > Robert Blinn
 > Chase Law Firm, L.C.
 >
 > P.O. Box 75144, Wichita KS 67275
 > Voice: (316) 773-3270
 > Fax: (316) 729-5918
 >

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<p>■ Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>Mr. Stephen P. Finch N. 3491 Pamela Lane New London, WI 54961</p>		<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery 2/10/04</p>
		<p>D. Is delivery address different from Item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type</p> <p><input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail</p> <p><input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise</p> <p><input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input checked="" type="checkbox"/> Yes</p>	
<p>2. Article Number (Transfer from service label)</p>		<p>7002 2030 0005 4659 3952</p>	
<p>PS Form 3811, August 2001</p>		<p>Domestic Return Receipt</p>	

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